



**THE ATTORNEY GENERAL
OF TEXAS**

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March 19, 1969

Senator William T. Moore
Chairman

Senate State Affairs Committee
State Capitol Building
Austin, Texas

Opinion No. M-362

Re: Whether Sections 1, 3 and
4 of S. B. 184, 61st Leg.,
would give the State Board
of Dental Examiners the
power to prescribe addi-
tional acts or services of
dental assistants to the
extent that the latter
could perform oral prophylaxis.

Dear Senator Moore:

At your request we have examined Senate Bill No. 184
and we answer the question set out above in the affirmative.

The statutes relating to the practice of dentistry
are found in Articles 4543 through 4551g, Vernon's Civil
Statutes, and Articles 747 through 754c, Vernon's Penal Code.
These statutes provide for the licensing and regulation of
dentists, dental hygienists, and dental technicians and labora-
tories, but in their present form they do not make provision
for "dental assistants".

Article 4548, Vernon's Civil Statutes, and Article 747,
Vernon's Penal Code, provide that no person shall practice
dentistry without having first obtained a license from the
State Board of Dental Examiners. We understand the term "oral
prophylaxis" to mean the cleaning of teeth. Article 4551a(2),
Vernon's Civil Statutes, and Article 754a(2), Vernon's Penal
Code, provide that a person shall be regarded as practicing
dentistry "[w]ho shall offer or undertake by any means or
methods whatsoever, to clean teeth or to remove stains, con-
cretions or deposits from teeth in the human mouth"
Article 4551b, Vernon's Civil Statutes, and Article 753,
Vernon's Penal Code, in their present form make certain excep-
tions, such as dental students and dental hygienists, but do
not mention "dental assistants".

Thus, it seems clear that under the present statutes dental assistants may not lawfully clean teeth. However, Section 1 of Senate Bill No. 184 would amend Article 4551d, Vernon's Civil Statutes, to read as follows:

"The Texas State Board of Dental Examiners is hereby empowered and authorized to adopt, promulgate, and enforce such rules and regulations as the Board may deem necessary and advisable pertaining to standards of conduct to maintain public confidence and respect of the dental profession and such rules and regulations as the Board may deem necessary to prescribe, define, authorize and regulate the acts and areas of practice and governing the relationship between and the activities of licensed dentists, dental hygienists, dental assistants, dental laboratories, and dental technicians, and their relationship to other branches of the healing arts and to or with the public, and such other rules and regulations as the Board may deem advisable to protect and to foster the public health; however, notice must be given at least ten (10) days in advance of any meeting called by the Board to consider the adoption of any rule, or regulation, or change therein; such notice as herein provided for shall be accomplished by publication at least once in a newspaper having general circulation in the State of Texas."

In addition, Section 3 of S. B. 184 would add the following exception to Article 4551b, Vernon's Civil Statutes, and Section 4 of the Bill would add the same exception to Article 753, Vernon's Penal Code.

"(9). dental interns, dental residents, and dental assistants as defined and regulated by the Texas State Board of Dental Examiners in its rules and regulations."

The language just quoted is not contained in S. B. No. 184, as introduced in the Senate. However, you stated in your letter of March 11, 1969, that the author of the Bill will offer

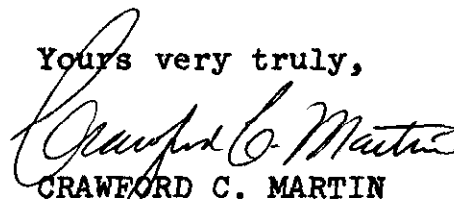
an amendment so that Sections 3 and 4 would thereafter read as above quoted. This opinion is based on the premise that the author will offer the amendment and that it is adopted by the Senate.

In our opinion, if S. B. 184 is enacted into law, the Board will be empowered, among other things, to promulgate rules and regulations prescribing the acts or services to be performed by dental assistants and may include the cleaning of teeth in such acts or services.

S U M M A R Y

If enacted into law, proposed Senate Bill No. 184, 61st Legislature, would empower the Texas State Board of Dental Examiners to, among other things, promulgate rules and regulations prescribing the acts or services to be performed by dental assistants and to include the cleaning of teeth in such acts or services.

Yours very truly,



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